STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD

IN THE MATTER OF PROPOSED REVISIONS TO THE STATE IMPLEMENTATION PLAN UNDER CLEAN AIR ACT § 110(a)(2)(D) WITH RESPECT TO VISIBILITY

No. EIB 13- 03(R)

PETITION FOR REGULATORY CHANGE

The New Mexico Environment Department ("Department"), pursuant to 20.1.1 NMAC - Rulemaking Procedures, petitions the Environmental Improvement Board ("Board") to approve a revision to the New Mexico State Implementation Plan ("SIP") with respect to the visibility element of § 110(a)(2)(D) The Board is authorized to adopt the proposed revisions by the Air Quality Control Act, NMSA 1978, §§ 74-2-2 et seq., and specifically by NMSA 1978 § 74-2-5.C (1). The proposed SIP revisions and a statement of the reasons for their adoption are attached.

The Department requests that the Board schedule the hearing for during its regular meeting in September 2013, immediately following the hearing in No. EIB 12-02(R). The Department anticipates that the time necessary to conduct the hearing will be approximately one hour.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL

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STATEMENT OF REASONS

In August 2011, the U.S. Environmental Protection Agency ("EPA") disapproved the visibility element of New Mexico's September 17, 2007 State Implementation Plan ("SIP") under Clean Air Act ("CAA") § 110(a)(2)(D), the interstate transport provisions. EPA based its disapproval on the fact that with respect to the San Juan Generating Station ("SJGS"), currently effective enforceable emission limits for sulfur dioxide ("SO_2") and nitrogen oxides ("NOx") were greater than the assumed emission rates contained in modeling performed by the Western Regional Air Partnership ("WRAP"). EPA reasoned that other western states had relied on the WRAP modeling in setting their own reasonable progress goals for visibility improvement, and that emissions in excess of the WRAP assumptions would "interfere with measures" in other states' SIPs. Therefore, EPA promulgated a federal implementation plan ("FIP") to address CAA § 110(a)(2)(D).

In the FIP, EPA established an SO_2 limit for SJGS equivalent to the WRAP assumptions. For NOx, however, EPA chose to adopt a more stringent limit, based not on the WRAP assumptions but on EPA's determination of the best available retrofit technology ("BART"). Although a different BART determination made by New Mexico was then pending before EPA,

EPA chose to proceed with a NOx BART determination on a schedule driven by a deadline for EPA to take action under CAA § 110(a)(2)(D).

New Mexico and other parties subsequently sought review of the NOx BART FIP in the U.S. Court of Appeals for the Tenth Circuit. In an effort to settle this case, on February 15, 2013, New Mexico, EPA, and Public Service Company of New Mexico ("PNM") (the operator of the SJGS) reached a tentative agreement on control strategies at the SJGS to satisfy both BART and CAA § 110(a)(2)(D) requirements. The provisions of the tentative agreement are contained in a "Term Sheet," which is attached as Attachment 1 to this SIP.

The proposed SIP revision contains a more detailed discussion of this regulatory history, a demonstration that the Term Sheet conditions would satisfy the CAA § 110(a)(2)(D) requirements, and incorporates the substantive provisions of the Term Sheet. (These provisions are identical to the requirements in the proposed regional haze SIP revisions at issue in No. EIB 13-02 (R)).

The Department requests that the Board adopt these revisions in order to satisfy New Mexico's outstanding requirements under CAA § 110(a)(2)(D), and to implement the provisions of the Term Sheet in furtherance of the tentative settlement agreement with respect to the NOx BART determination for the SJGS.

NEW MEXICO STATE IMPLEMENTATION PLAN

REVISION

TO SATISIFY THE REQUIREMENTS OF CLEAN AIR ACT 110(a)(2)(D)(i)(II) WITH RESPECT TO VISIBILITY FOR THE 8-HOUR OZONE AND PM 2.5 NAAQS PROMULGATED IN JULY 1997

I. Background

A. Regulatory History

Under Clean Air Act ("CAA") Section 110, certain revisions to state implementation plans ("SIPs") are required within three years of the promulgation or revision by the Environmental Protection Agency ("EPA") of any National Ambient Air Quality Standard ("NAAQS").

The required contents of such SIP revisions are specified in CAA § 110(a)(2). Most of these requirements address air quality within the state submitting the SIP, however the provisions at CAA § 110(a)(2)(D)(i) address *interstate* transport of pollutants. As summarized by EPA:

> Section 110(a)(2)(D)(i) contains four distinct requirements related to the impacts of interstate transport. The SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in other states; (2) interfere with maintenance of the NAAQS in other states; (3) interfere with provisions to prevent significant deterioration of air quality in other states; or (4) interfere with efforts to protect visibility in other states. 75 Fed. Reg. 72,688, 72,689-90, Nov. 26, 2010

In July, 1997, EPA promulgated simultaneous revisions to the NAAQS for ozone and fine particles ("$PM_{2.5}$") (62 Fed. Reg. 38,652 (July 18, 1997)), triggering a three year

deadline for SIP revisions to address, among other things, the interstate transport provisions of CAA § 110(a)(2)(D).

After delays caused in part by litigation over the 1997 NAAQS revisions, EPA on August 15, 2006 issued *Guidance for the State Implementation Plan Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards, EPA* ("2006 Guidance").

On September 17, 2007, New Mexico submitted a SIP to EPA addressing each of the four elements, in accordance with the 2006 Guidance. EPA approved this SIP with respect to element (1) on June 11, 2010 (75 Fed. Reg. 33,174), and approved it with respect to elements (2) and (3) on November 26, 2010 (75 Fed. Reg. 72,688).

With respect to the fourth and final element, regarding visibility, the September 17, 2007 SIP stated that New Mexico would submit an approvable SIP for regional haze by December, 2007. This commitment was in accordance with the 2006 Guidance, which provided that "a state could meet the visibility prong of the transport requirements of section 110(a)(2)(D)(i)(II) of the CAA by submission of the RH SIP, due in December 2007." 76 Fed. Reg. 491, 496 (Jan. 5, 2011). See also 2006 Guidance, pp. 9-10.

However, New Mexico did not in fact submit an approvable regional haze SIP by December, 2007, and on January 15, 2009, EPA published a "Finding of Failure to Submit State Implementation Plans Required by the 1999 Regional Haze Rule." 74 Fed. Reg. 2,392 (Jan. 15, 2009). New Mexico subsequently submitted a complete regional haze SIP, which was approved by the Board on June 3, 2011 and submitted to EPA by Governor Martinez on June 29, 2011.

In a separate action, EPA had previously entered into a consent decree with WildEarth Guardians as a result of that group's complaint alleging that EPA had failed to perform a non-discretionary duty to either approve SIPs or promulgate FIPs to satisfy the requirements of CAA § 110(a)(2)(D)(i), for several states including New Mexico. *WildEarth Guardians v. Lisa Jackson,* Case No. 4:09-CV-02453 (USDC N. Cal).

In August, 2011, EPA disapproved New Mexico's September 17, 2007 CAA § 110(a)(2)(D) SIP with respect to the visibility element. 76 Fed. Reg. 52,388. EPA noted that "[t]he 2007 submission by New Mexico anticipated that the State would submit a substantive RH SIP to meet the requirements of section 110(a)(2)(D)(i)(II)." EPA acknowledged that New Mexico did submit a regional haze SIP, received by EPA on July 5, 2011, but explained that it "would not have been possible for EPA to review [that] SIP . . . propose a rulemaking, and promulgate a final action by the dates required by the [WildEarth Guardians] consent decree." 76 Fed. Reg. 52,388, 52,389-90 (Aug 22, 2011).

In the August 22, 2011 final rule (and the proposed rule of January 5, 2011, 76 Fed. Reg. 491), EPA explained its rationale for determining what emissions limits were required in

New Mexico in order to comply with the interstate transport provisions of CAA § 110(a)(2)(D), as explained below.

B. Emissions Reductions Necessary To Satisfy § 110(A)(2)(D)

In order to determine whether New Mexico emissions would interfere with other state's regional haze SIPs, EPA looked to New Mexico's and other western states participation in the Western Regional Air Partnership (WRAP) to collaboratively develop regional haze strategies. EPA reasoned that "[i]n setting reasonable progress goals, States in the West generally replied on" air quality modeling conducted by the WRAP which assumed certain emission reductions from each state. 76 Fed. Reg. at 52,390.

Using the WRAP modeling inputs as a yardstick, EPA determined that "New Mexico sources, other than the SJGS [San Juan Generating Station], *are sufficiently controlled to eliminate interference with the visibility programs of other states* because the federally enforceable emission limits for these sources are consistent with those relied upon in the WRAP modeling." *Id.* (emphasis added).

With respect to the SJGS, EPA stated that the "SO_2 and NOx emissions relied upon in the WRAP modeling are not federally enforceable" and thus did not satisfy CAA § 110(a)(2)(C). *Id.* For SO_2 from the SJGS, the WRAP modeling assumed an emission rate of 0.15 lbs/mmBtu for all four units, and therefore EPA established in the final rule an SO_2 limit of 0.15 lb/MMBtu on 30 day rolling average on a boiler operating day basis. *Id.*

With respect to NOx from the SJGS, as EPA had previously noted in the proposed rule, the WRAP modeling assumed NOx emission rates of 0.27 lb/MMBtu for Units 1 and 2, and 0.28 lbs/MMBtu for Units 3 and 4. 76 Fed. Reg. at 497. Thus, 0.27 – 0.28 lb NOx/MMBtu was the level relied upon by other states in shaping their visibility strategies. However, EPA did not use those rates to set NOx limits for the SJGS, explaining:

> We are choosing, however, not to use the WRAP assumptions to make a determination on the enforceable NOx controls necessary to prevent visibility interference, as we are doing for the SO_2 controls. Instead, we are addressing NOx control for the SJGS by fulfilling our duty under the BART provisions of the RH rule to promulgate a RH FIP for New Mexico to address . . . the requirement for BART. We do not believe it is prudent to delay a NOx BART determination for the SJGS, *because we have determined that the BART requirements are more stringent than the visibility transport requirements. Id.* (emphasis added).

EPA thus proceeded to promulgate a BART FIP for the SJGS with a much more stringent emission limit of 0.05 lb/MMBtu, based on installation of selective catalytic reduction (SCR) technology. That BART FIP is currently under review in the U.S. Court of Appeals for the Tenth Circuit. *Martinez v. EPA*, No. 11-9567 and consolidated cases. However, New Mexico, PNM and EPA have reached a tentative settlement agreement.

Under the terms of the tentative agreement, which are contained in a "Term Sheet" signed on February 15, 2013 (Attachment 1), the SJGS would completely shut down Units 2 and 3 by the end of 2017 and install on Units 1 and 4 selective non-catalytic reduction (SNCR) technology with an emission rate of 0.23 lb/MMBtu, within 15 months of EPA's approval of this SIP.

In summary, EPA adopted the WRAP assumptions for SJGS of 0.27 – 0.28 lbs/mmBtu for NOx and 0.15 lbs/mmBtu for SO_2 as the criteria for approvability of a CAA § 110(a)(2)(D) implementation plan. Although EPA imposed a different NOx emission as a BART limit (which is also a subject of the tentative settlement), the WRAP modeling assumptions remain the benchmark for purpose of determining compliance of CAA § 110(a)(2)(D).

C. Satisfaction of the CAA § 110(a)(2)(D) Requirements for the SJGS

1. NOx

Under the provisions of the Term Sheet, the NOx emission rate for SJGS Units 1 and 4 will be no greater than 0.23 lb/MMBtu, and for Units 2 and 3 will be zero, upon the shutdown of those Units in 2017. This will clearly result in lower NOx emissions than the WRAP assumptions of 0.27 lb/MMBtu on Units 1 and 2 and 0.28 lb/MMBtu on Units 3 and 4. Specifically, based on an 85% capacity factor, the WRAP assumptions result in 19,324 tons NOx per year, while the Term Sheet scenario results in only 8,011 tons NOx per year, an improvement of more than 58% as compared to the WRAP assumptions.

The NOx emissions resulting from the Term Sheet scenario therefore satisfy the requirements of CAA § 110(a)(2)(D) as defined by EPA.

2. SO_2

EPA's final rule established an SO_2 emission rate of 0.15 lb/MMBtu for each unit on a 30 day rolling average basis, in accordance with the WRAP assumption. PNM voluntarily requested a permit modification to incorporate that limit, and the permit modification was issued on May 16, 2011 (NSR Permit No. 0063-M6R2).

Under the provisions of the Term Sheet, SO_2 emissions will be further reduced by lowering the SO_2 permit limit at Units 1 and 4 to 0.10 lb/MMBtu (33% lower than the WRAP's assumed emission rate) and by shutting down Units 2 and 3. This will result in a 67% reduction in emissions from the WRAP assumptions, from 10,535 tons per year to 3,483 tons per year.

The SO_2 emissions resulting from the Term Sheet scenario therefore satisfy the requirements of CAA § 110(a)(2)(D) as defined by EPA.

II. Requirements Applicable to SJGS Pursuant to CAA § 110(a)(2)(D)

In accordance with the Term Sheet, the following requirements apply to the San Juan Generating Station:

a. Fifteen (15) months after EPA final approval of this revised SIP, no earlier than January 31, 2016, Public Service Company of New Mexico (PNM) will complete installation of selective non-catalytic reduction (SNCR) technology on SJGS Units 1 and 4 of no greater than 0.23 lb/MMBtu on a daily rolling 30-day average basis.

b. Testing Program. PNM shall comply with the following. Dates that follow with an asterisk(*) in items (i) – (iv) shall be revised accordingly if the installation date extends past January 31, 2016 due to delay in EPA's SIP approval:

i. PNM will commence a program of testing and evaluation, after the installation of the SNCRs. The Testing Program consisting of SNCR Performance Testing, Fuel Performance Testing, and Long-Term Performance Evaluation is to be completed no later than January 31, 2017,* unless the Long-Term Performance Evaluation is delayed per the language in paragraph b.iv below.

ii. SNCR Performance Testing will be conducted to develop a targeted ammonia/urea injection rate range at various load levels without exceeding a to-be-agreed-upon preliminary slip limit of between 5 and 10 ppm, with the goal of minimizing NOx emissions. PNM shall provide the results of the performance tests, recommended final slip limit, and target ammonia/urea injection rates to NMED and EPA by April 1, 2016.* PNM will allow up to April 30, 2016* for the agencies to either concur with PNM's slip limit recommendation or to concur on a different slip limit that PNM will comply with for Units 1 and 4.

iii. PNM will conduct Fuel Performance Testing (in conjunction with the SNCR Performance Testing) of its pre-treated coal technology, so long as it has not been previously determined to result in any detrimental effect to SJGS Units 1 and 4 or their operation, with the objective of further reducing NOx emissions. If the Fuel Performance Testing demonstrates that it does not: (i) measurably increase NOx emissions, or (ii) adversely impact overall unit operations, PNM shall also use such pre-treated coal for the 9-month Long-Term Performance Evaluation Period described below. PNM will also use pre-treated coal on Units 2 and 3 when used on Units 1 and 4.

iv. Long-Term Performance Evaluation Period. PNM will begin collecting NOx emission and ammonia/urea injection rate data from Units 1 and 4 on a daily rolling 30-day average basis for nine continuous months beginning on May 1, 2016* and provide such data and any recommendations on the NOx emission limit to NMED and EPA by February 28, 2017* or no later than 28 days after completing the Long-Term Performance Evaluation Period. PNM may request more time if a

slip limit is not agreed upon by April 30, 2016.* The Long-Term Performance Evaluation Period must include 60 days between June 1st and August 30th and 60 days between December 1st and February 28th. The Demonstrated Emission Rate will be the highest daily rolling 30-day average emission rate during the 9-month Long-Term Performance Evaluation Period (not including periods of malfunction or abnormal operating conditions) adjusted to three significant digits. If the Demonstrated Emission Rate is greater than or equal to 0.200 lb/MMBtu on a daily rolling 30-day average basis, no adjustment to the NOx emission rate for Units 1 and 4 will be made. If the Demonstrated Emission Rate is less than 0.200 lb/MMBtu on a daily rolling 30-day average basis PNM will apply for a permit modification by March 31, 2017* (or no later than 60 days after completing the Long-Term Performance Evaluation Period) to reduce the permitted emission rate by 60% of the difference between 0.23 lb/MMBtu and the Demonstrated Emission Rate, provided the revised emission rate does not adversely impact overall unit operations. The permit modification will include the agreed upon ammonia slip limit.

c. No later than six months from the Board's adoption this SIP revision, PNM will comply with a sulfur dioxide ("SO_2") emission rate at Units 1 and 4 of 0.10 lb/MMBtu on a daily rolling 30-day average basis.

d. PNM shall diligently seek all necessary regulatory approvals to allow for retirement of SJGS Units 2 and 3 by December 31, 2017, and if such approvals are granted, shall retire SJGS Units 2 and 3 by December 31, 2017.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202 – 2733

Office of the Regional Administrator

Term Sheet
Between the U.S. Environmental Protection Agency,
Public Service Company of New Mexico and the State of New Mexico

This term sheet reflects a tentative agreement on technical terms and an appended corresponding timeline for action intended to address pollution control requirements for the San Juan Generating Station under the Clean Air Act's requirements for regional haze and interstate transport for visibility. These terms have no binding effect and will only become binding if incorporated into a settlement agreement that receives all necessary EPA and Department of Justice approvals and complies with Section 113(g) of the Clean Air Act, as applicable.

1. The New Mexico Environment Department (NMED) will develop and seek adoption by the New Mexico Environmental Improvement Board ("NM EIB") of a State Implementation Plan (SIP) revision. If the NM EIB approves the SIP revision after following all applicable procedural requirements including notice and a public hearing, the Governor of the State of New Mexico or her designee will submit the SIP revision to EPA for approval with supporting administrative and technical information and visibility modeling. The SIP revision will include the following elements:

    a. Rulemaking addressing a NOx Best Available Retrofit Technology (BART) determination and enforceable emissions limits for SO_2.

    b. A five-factor BART analysis in accordance with the BART Guidelines, and other EPA guidance, as applicable, including documentation relied upon in making the BART determination. The use of confidential business information will be minimized to the extent practical in making the analysis.

    c. New Mexico's rulemaking will require that fifteen (15) months after EPA final approval of the Revised SIP, no earlier than January 31, 2016, Public Service Company of New Mexico (PNM) will complete installation of selective non-catalytic reduction (SNCR) technology on SJGS Unit 1 and 4 and achieve an average nitrogen oxide (NOx) emission rate for Units 1 and 4 of no greater than 0.23 lb/MMBtu on a daily rolling 30-day average basis. Within 30 days after this "Term Sheet" is signed, PNM will submit a project schedule to the State and EPA that demonstrates the critical milestones for meeting the January 31, 2016, installation completion date. The dates that follow with an asterisk (*) in paragraph d. will be revised accordingly if the installation date extends past January 31, 2016 due to delay in EPA's SIP approval.

    d.

        i. Testing Program. PNM will commence a program of testing and evaluation, after the installation of the SNCRs. The Testing Program consisting of SNCR Performance Testing, Fuel Performance Testing, and Long-Term Performance

ATTACHMENT 1

Evaluation is to be completed no later than January 31, 2017*, unless the Long-Term Performance Evaluation is delayed per the language in paragraph 1.d.iv.

ii. SNCR Performance Testing will be conducted to develop a targeted ammonia/urea injection rate range at various load levels without exceeding a to-be-agreed-upon preliminary slip limit of between 5 and 10 ppm, with the goal of minimizing NOx emissions. PNM shall provide the results of the performance tests, recommended final slip limit, and target ammonia/urea injection rates to NMED and EPA by April 1, 2016*. PNM will allow up to April 30, 2016* for the agencies to either concur with PNM's slip limit recommendation or to concur on a different slip limit that PNM will comply with for Units 1 and 4.

iii. PNM will conduct Fuel Performance Testing (in conjunction with the SNCR Performance Testing) of its pre-treated coal technology, so long as it has not been previously determined to result in any detrimental effect to SJGS Units 1 and 4 or their operation, with the objective of further reducing NOx emissions. If the Fuel Performance Testing demonstrates that it does not: (i) measurably increase NOx emissions, or (ii) adversely impact overall unit operations, PNM shall also use such pre-treated coal for the 9-month Long-Term Performance Evaluation Period described below. PNM will also use pre-treated coal on units 2 and 3 when used on units 1 and 4.

iv. Long-Term Performance Evaluation Period. PNM will begin collecting NOx emission and ammonia/urea injection rate data from Units 1 and 4 on a daily rolling 30-day average basis for nine continuous months beginning on May 1, 2016* and provide such data and any recommendations on the NOx emission limit to NMED and EPA by February 28, 2017* or no later than 28 days after completing the Long-Term Performance Evaluation Period. PNM may request more time if a slip limit is not agreed upon by April 30, 2016*. The Long-Term Performance Evaluation Period must include 60 days between June 1st and August 30th and 60 days between December 1st and February 28th. The Demonstrated Emission Rate will be the highest daily rolling 30-day average emission rate during the 9-month Long-Term Performance Evaluation Period (not including periods of malfunction or abnormal operating conditions) adjusted to three significant digits. If the Demonstrated Emission Rate is greater than or equal to 0.200 lb/MMBtu on a daily rolling 30-day average basis no adjustment to the NOx emission rate for units 1 and 4 will be made. If the Demonstrated Emission Rate is less than 0.200 lb/MMBtu on a daily rolling 30-day average basis PNM will apply for a permit modification by March 31, 2017* (or no later than 60 days after completing the Long-Term Performance Evaluation Period) to reduce the permitted emission rate by 60% of the difference between 0.23 lb/MMBtu and the Demonstrated Emission Rate, provided the revised emission rate does not adversely impact overall unit operations. The permit modification will include the agreed upon ammonia slip limit.

e. New Mexico's rulemaking will require that no later than six months from NM EIB adoption of SO_2 emission limit in the RH and Interstate Visibility Transport SIP

revisions, PNM will comply with new sulfur dioxide ("SO_2") emission rates at Units 1 and 4 of 0.10 lb/MMBtu on a daily rolling 30-day average basis.

f. New Mexico's rulemaking will require that PNM diligently seek all necessary regulatory approvals to allow for retirement of SJGS Units 2 and 3 by December 31, 2017. New Mexico's rulemaking will require PNM to retire SJGS Units 2 and 3 by December 31, 2017.

2. NMED and EPA intend that the Regional Haze and Interstate Transport SIP revisions as adopted and submitted to EPA will, if approved by EPA, lead to EPA action withdrawing the federal implementation plan for SJGS. Nothing in the Regional Haze and Interstate Transport SIP revisions as adopted and submitted to EPA by New Mexico shall relieve SJGS from its obligations to comply with all applicable federal, state, and local laws and regulations, including laws, regulations, and compliance deadlines that become applicable after the date of any revisions to New Mexico's Regional Haze SIP that may be approved by EPA.

3. NMED also will develop and propose as part of the revised BART determination for PNM, a revision to the Visibility Interstate Transport SIP for NOx and SO_2. NMED's Visibility Interstate Transport SIP revision will require enforceable emissions limits for NOx and SO_2 consistent with the emission limits established in the Regional Haze SIP submission in accordance with item 1.

4. PNM agrees that the natural gas combustion turbine(s) to be sited at the San Juan Generating Station to partially replace the retired Unit 2 and Unit 3 coal capacity will undergo BACT analysis and control even if not subject to major source PSD, with the goal of minimizing the visibility impact of emissions of NOx. PNM agrees that the aggregate annual NOx emissions from any such on site replacement power shall not exceed 75 tons.

Signature Page for Term Sheet between the U.S. Environmental Protection Agency, Public Service Company of New Mexico, and the State of New Mexico.

FOR PUBLIC SERVICE COMPANY OF NEW MEXICO:

Dated: February 15, 2013

Patricia K. Collawn
President and CEO
Public Service Company of New Mexico

Signature Page for Term Sheet between the U.S. Environmental Protection Agency, Public Service Company of New Mexico, and the State of New Mexico.

FOR THE STATE OF NEW MEXICO:

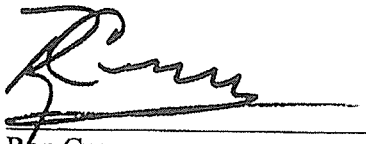
Dated: Feb. 15, 2013

F. David Martin
Secretary
New Mexico Environment Department

Signature Page for Term Sheet between the U.S. Environmental Protection Agency, Public Service Company of New Mexico, and the State of New Mexico.

FOR THE U.S ENVIRONMENTAL PROTECTION AGENCY:

Dated: February 15, 2013



Ron Curry
Regional Administrator
U.S. Environmental Protection Agency, Region 6

TERM SHEET ATTACHMENT

Timeline

February 15, 2013	EPA Comfort Letter
February 22, 2013	Letter from NMED requesting that EPA not take action on the current SIP.
March 2013	PNM submits new BART analysis to NMED
March 2013	NMED begins work on revised SIP pursuant to the "Term Sheet"
May/June 2013	Request hearing before the EIB and start public comment period
September 2013	Revised SIP presented to EIB
Within 30 Days of preceding event	Revised SIP submitted to EPA
Within 60 Days of preceding event	Completeness Determination (EPA can now determine if additional discussion concerning FIP Compliance Dates is warranted)
Within 135 Days of preceding event	EPA proposes action on Revised SIP
Within 150 Days of preceding event	EPA final action on Proposed SIP
Within 30 Days of preceding event	EPA/NMED discussion concerning FIP Compliance Dates (if necessary)